

Title 15: COURT PROCEDURE -- CRIMINAL

Chapter 205: WITNESSES

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Maine Revised Statutes
Title 15: COURT PROCEDURE -- CRIMINAL
Chapter 205: WITNESSES

Subchapter 1: GENERAL PROVISIONS

§1311. (REPEALED)

SECTION HISTORY

1965, c. 356, §49 (RP).

§1312. NO FEES TO STATE WITNESSES

No costs shall be taxed for witnesses before the grand jury in a case where no bill is found nor in complaints against towns for defect of road, unless they were admitted to bail so to attend or were subpoenaed by order of the grand jury or at the request of the prosecuting officer; nor is it necessary to tender fees to witnesses subpoenaed in behalf of the State. [1965, c. 356, §50 (AMD).]

SECTION HISTORY

1965, c. 356, §50 (AMD).

§1313. PUNISHMENT OF STATE WITNESS FOR NONATTENDANCE

Whoever, having been subpoenaed as a witness in behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the subpoena, if he is not punished therefor as for contempt, is guilty of a Class E crime. [1979, c. 663, §105 (AMD).]

SECTION HISTORY

1965, c. 356, §51 (AMD). 1979, c. 663, §105 (AMD).

§1314. NO WITNESS FEES UNTIL 2ND OR 3RD DAY IN CONTINUED CASES

No fees in criminal cases continued after the first term shall be allowed to witnesses on the part of the State until the 2nd day of the term in Hancock, Oxford, Franklin, Piscataquis and Aroostook; nor until the 3rd day in any other county, unless they were summoned at an earlier day. In all criminal cases, previous to the determination thereof, the court may allow such costs for justices, officers, aids, jurors and witnesses, as are provided by law, to be paid from the county treasury; but no court or judge shall allow any charge for aid or other expenses of the officer in serving a warrant, except his stated fees for service and travel unless, on his examination upon oath or on other evidence, they find such additional charges reasonable.

§1314-A. COMPELLING EVIDENCE IN CRIMINAL OR JUVENILE PROCEEDINGS; IMMUNITY

In any criminal proceeding before a court or grand jury, or in any juvenile proceeding before a court, if a person refuses to answer questions or produce evidence of any kind on the ground that the person may be incriminated thereby, and if the attorney for the State, in writing and with the written approval of the Attorney General or, in the event the prosecution is being conducted by the office of the district attorney, the written approval of either the Attorney General or the district attorney for that district, requests the court to order that person to answer the questions or produce the evidence, and the court after notice to the witness and hearing orders, unless the court finds to do so would be clearly contrary to the public interest, that person shall comply with the order. After complying, and if, but for this section, that person would have had the right to withhold the answers given or the evidence produced by that person, that person may not be prosecuted or subjected

to penalty, forfeiture or adjudication for or on account of any transaction, matter or thing concerning which, in accordance with the order, that person gave answer or produced evidence. Failure to answer questions or produce evidence as ordered by the court following notice and hearing constitutes contempt of court. The person may nevertheless be prosecuted or subjected to penalty, forfeiture or adjudication for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing or failing to produce evidence, in accordance with the order. [2003, c. 162, §1 (AMD).]

SECTION HISTORY

1967, c. 526, (NEW). 1985, c. 386, §1 (AMD). 2003, c. 162, §1 (AMD).

§1315. SELF-INCRIMINATION; FAILURE TO TESTIFY; HUSBAND OR WIFE AS WITNESS

In all criminal trials, the accused shall, at his own request but not otherwise, be a competent witness. He shall not be compelled to testify on cross-examination to facts that would convict, or furnish evidence to convict him of any other crime than that for which he is on trial. The fact that he does not testify in his own behalf shall not be taken as evidence of his guilt. The husband or wife of the accused is a competent witness except in regard to marital communications. [1969, c. 333, (AMD).]

SECTION HISTORY

1969, c. 333, (AMD).

§1316. DEPOSITIONS

(REPEALED)

SECTION HISTORY

1965, c. 356, §52 (RP).

§1317. LIST OF WITNESSES

The Attorney General, district attorney or foreperson of the grand jury shall swear or affirm, in presence of the jury, all witnesses who are to testify before them, and a list thereof, stating the cases in which they testify, must be returned into the court by the foreperson before the jury is discharged and filed and entered on record by the clerk. The clerk may not make such list public until the criminal cases at such terms have been tried or otherwise disposed of. [2003, c. 299, §3 (AMD).]

SECTION HISTORY

1973, c. 567, §20 (AMD). 2003, c. 299, §3 (AMD).

§1318. PROSECUTING ATTORNEYS

For purposes of this chapter, the term "prosecuting attorney" means: [1979, c. 663, §106 (AMD).]

1. Attorney General. "Attorney General" where a criminal prosecution is brought by the Attorney General; and

[1975, c. 775, §1 (NEW) .]

2. District Attorney. "District Attorney" where a criminal prosecution is brought by a District Attorney.

[1975, c. 775, §1 (NEW) .]

SECTION HISTORY

1975, c. 775, §1 (NEW). 1979, c. 663, §106 (AMD).

§1319. AUTHORIZATION OF PAYMENTS BY A PROSECUTING ATTORNEY

For purposes of this chapter, when a prosecuting attorney is permitted to authorize payment of fees or expenses incurred on behalf of the State in a criminal prosecution, payment of those fees and expenses must be made by the proper authorities to the persons, municipalities or agencies to whom the payment is authorized upon certification to those authorities by the prosecuting attorney or the prosecuting attorney's designee that the payment is reasonable and necessary to the prosecution of a given criminal case. Payment may be made from the Extradition and Prosecution Expenses Account established in section 224-A. [2013, c. 566, §4 (AMD).]

SECTION HISTORY

1975, c. 775, §1 (NEW). 2013, c. 566, §4 (AMD).

§1320. AUTHORIZATION OF PAYMENT OF WITNESS FEES OF STATE WITNESSES IN CRIMINAL PROSECUTIONS

In all criminal prosecutions in the Superior Court, payment of witness fees for state witnesses, fees and expenses payable on account of the services of police officers as witnesses and as complainants, and fees and expenses payable on account of the services of police officers in serving criminal process shall be made upon authorization by the prosecuting attorney or his designee. The amount of the fees and expenses shall be determined in accordance with these statutes. [1975, c. 775, §1 (NEW).]

1. Payments. Payments made under this section must be made first from the Extradition and Prosecution Expenses Account established in section 224-A and, if there are insufficient funds in that account, next from the county treasury upon authorization of the prosecuting attorney, unless otherwise expressly directed by law. Payments from the county treasury must be made from the sums set aside in the county budget for the payments on account of Superior Court criminal proceedings.

[2013, c. 566, §5 (AMD).]

2. Expenditures. In fixing the amount of direct expenditures by the counties in calendar year 1975 for the support of the Superior Court pursuant to Title 4, section 118, the Treasurer of State shall not consider sums expended in criminal prosecutions in the Superior Court on account of witness fees for state witnesses, fees and expenses payable on account of the services of police officers as witnesses and as complainants, and fees and expenses payable on account of the services of police officers in serving criminal process.

[1975, c. 775, §1 (NEW).]

SECTION HISTORY

1975, c. 775, §1 (NEW). 1977, c. 63, (AMD). 2013, c. 566, §5 (AMD).

Subchapter 2: COSTS AND FEES

§1361. SUMMONS TO WITNESSES

(REPEALED)

SECTION HISTORY

1965, c. 356, §53 (RP).

§1362. COSTS AND FEES FOR COMPLAINANTS

No costs shall be allowed by such judge to complainants in any capacity; but this shall not prevent the allowance of their fees as officers to police officers and constables or for their municipalities when such police officers or constables are paid a salary or are paid upon a per diem basis by such municipalities and such officers or constables complain under authority of their municipalities or it is made their duty to do so. No witness shall be allowed in a criminal case for more than one travel, or for travel and attendance in more than one case at the same time before any judicial tribunal.

§1363. LIMITATION OF COSTS AND FEES IN CRIMINAL CASES

No complainant or witness shall be allowed fees, travel and attendance in a criminal case for more than one complaint on any one day when there are other complaints against the same respondent arising out of the same transaction before any judicial tribunal.

Subchapter 3: OUT-OF-STATE WITNESSES

§1411. SHORT TITLE

This subchapter may be cited as "Uniform Act to Secure the Attendance of Witnesses from without a State in Criminal Proceedings."

§1412. DEFINITIONS

As used in this subchapter, the following words shall have the following meanings:

- 1. State.** "State" shall include any territory of the United States and District of Columbia.
- 2. Summons.** "Summons" shall include a subpoena, order or other notice requiring the appearance of a witness.
- 3. Witness.** "Witness" shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

§1413. SUMMONS TO TESTIFY IN ANOTHER STATE

If a judge of a court of record in any state, which by its laws has made provision for commanding persons within that state to attend and testify in this State, certifies under the seal of such court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution or grand jury investigation and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, and of any other state through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing. The

judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as provided, after being paid or tendered by some properly authorized person the sum of 10¢ a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

§1414. SUMMONS TO TESTIFY IN THIS STATE

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations commenced or about to commence in this State, is a material witness in a prosecution pending in a court of record in this State or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record within whose territorial jurisdiction the witness is found.

If the witness is summoned to attend and testify in this State, he shall be tendered the sum of 10¢ a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$15 for each day that he is required to travel and attend as a witness. In addition, such witness, upon submission of proper vouchers to the court, may be allowed reasonable allowance for meals and lodging at the discretion of the presiding justice. A witness who has appeared in accordance with the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

§1415. EXEMPTION FROM ARREST AND SERVICE OF PROCESS

If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

If a person passes through this State while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

Subchapter 4: PRISONERS AS WITNESSES

§1461. DEFINITIONS

As used in this subchapter: [1967, c. 317, (NEW) .]

1. Penal institutions. "Penal institutions" includes a jail, prison, penitentiary, house of correction or other place of penal detention.

[1967, c. 317, (NEW) .]

2. State. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory of the United States.

[1967, c. 317, (NEW) .]

3. Witness. "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

[1967, c. 317, (NEW) .]

SECTION HISTORY

1967, c. 317, (NEW).

§1462. SUMMONS TO TESTIFY IN ANOTHER STATE

A judge of the state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this State, may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution in this State may be a material witness in the proceeding, investigation or action, and that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the Attorney General, the judge in this State shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him at the hearing. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1463. COURT ORDER

If at the hearing the judge determines that the witness may be material and necessary, that his attending and testifying are not adverse to the interests of this State or to the health or legal rights of the witness, that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order, and that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and prescribing such conditions as the judge shall determine. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1464. TERMS AND CONDITIONS

The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1465. EXCEPTIONS

This subchapter does not apply to any person in this State confined as mentally ill. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1466. SUMMON TO TESTIFY IN THIS STATE

If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this State, a judge of the court may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action, and that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1467. COMPLIANCE

The judge of the court in this State may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1468. EXEMPTION FROM ARREST AND SERVICE OF PROCESS

If a witness from another state comes into or passes through this State under an order directing him to attend and testify in this or another state, he shall not while in this State pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this State under the order. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1469. UNIFORMITY OF INTERPRETATION

This subchapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1470. SHORT TITLE

This subchapter may be cited as the "Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act." [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

§1471. SEVERABILITY CLAUSE

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable. [1967, c. 317, (NEW).]

SECTION HISTORY

1967, c. 317, (NEW).

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